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31 OCTOBER 1947

I N D E X

Of

EXHIBITS

Doc. No.	Def. No.	Pros. No.	Description	For Ident.	In Evidence
		3374	Photostatic copy of Map (marked by Witness Batarshin)		32152
2531	3375		Affidavit of KOISO, Kuniaki		32204

Friday, 31 October 1947

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INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment, at 0930.

- - -

Appearances:

For the Tribunal, all Members sitting, with the exception of: HONORABLE JUSTICE R. B. PAL, Member from India and HONORABLE JUSTICE B. V. A. ROLING, Member from the Kingdom of the Netherlands, not sitting from 0930 to 1600; HONORABLE JUSTICE E. H. NORTHCROFT, Member from the Dominion of New Zealand, not sitting from 1500 to 1600.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

- - -

(English to Japanese and Japanese to English interpretation was made by the Language Section, IMTFE.)

Duda & Spratt

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now in session.

THE PRESIDENT: All the accused are present except SHIRATORI, who is represented by counsel. We have a certificate from the surgeon of Sugamo Prison, certifying that SHIRATORI is ill and unable to attend the trial today. The certificate will be recorded and filed.

Colonel Smirnov.

COLONEL SMIRNOV: I have only a few questions to the witness.

- - -

G I L F A N A. B A T A R S H I N, called as a witness on behalf of the prosecution, resumed the stand and testified through Russian interpreters as follows:

REDIRECT EXAMINATION

BY COLONEL SMIRNOV (Continued):

Q Mr. Witness, I asked you yesterday to mark on the map gun positions of the Japanese troops which you observed from the Zaozernaya Hill. Please do it.

Have you made a mark?

A Yes.

Q Make one more mark. Please mark with blue arrows the direction of the penetration of the Japanese

troops to the Zaozernaya Hill on July 31, 1938.

A Yes, I have done as you directed.

Q Was the Japanese offensive against the Bezjimjannaya Hill on July 31 conducted from the front or from the rear?

A The offensive of the Japanese forces on the night of July 31 began from flanks.

Q In other words, the Japanese were launching an attack. Were they launching an attack from the Soviet or from the Manchurian territory?

MR. FURNESS: I object. The question is obviously leading and inadmissible on that ground.

THE PRESIDENT: I do not think it is really leading. Objection overruled.

Q Please answer my question, Mr. Witness.

MR. FURNESS: I did not hear. Did you say it was upheld or overruled?

THE PRESIDENT: Overruled.

MR. FURNESS: The question that says, "In other words, the Japanese were launching an attack," was not leading?

THE PRESIDENT: Every leading question is not objectionable. It all depends upon the context.

Q Please answer the following question, Mr. Witness: Under what circumstances did the fighting

of July 31 take place, and in what way did it start?

A As I said previously, on July 31 at 12 o'clock in the night -- that is to say, on the night of July 31 -- the Japanese under the cover of night crossed the state border to the south of the Zaozernaya Hill. They reached the rear of our positions on the Zaozernaya Hill and from there launched an offensive.

In this offensive the Japanese used approximately a part of their reinforced regiment which was concentrated in the Hamoki Village and around this place. The second group of the Japanese forces crossed the state border line to the north of the Zaozernaya Hill and also started an offensive. And then other small Japanese forces conducted an offensive from the front; that is, other small Japanese forces attacked the crest of the Zaozernaya Hill from the front.

Our border guards, being on their positions and fully prepared to fight, engaged in battle. At that time on the western slopes -- on the eastern slopes of the Zaozernaya Hill, as I told you yesterday, there were only thirty border guards. And our border guards had the order of the commander of the outpost to hold out to the last and not to leave the Zaozernaya Hill until the approach of the reserve units of our border guard detachment. After the fighting had started on

the eastern slopes of the Zaozernaya Hill, a platoon of the field troops, thirty men strong, approached us.

Thus, on the Zaozernaya Hill there were at that time sixty men: thirty border guards and thirty regular army soldiers -- Soviet regular army soldiers. And together with these thirty soldiers of the Soviet Army, we, the border guards, kept fighting up to the dawn; that is, until 5 o'clock in the morning. When almost all of us were either wounded or killed, we withdrew from the Zaozernaya Hill to the bank of the Lake Khasan, and as we had no ways to retreat by land because those ways were held by the Japanese, I, together with the wounded commander of the outpost, Tereshkin, had to swim across the Lake Khasan.

THE RUSSIAN MONITOR: I had to swim, together with Lieutenant Tereshkin, across the Khasan Lake.

A (Continuing) At that time all that could swim, swam across the Khasan Lake. At that time the Japanese were firing at those who were swimming across the Lake Khasan from artillery and trench mortars.

Q These are details which are of no interest to the Tribunal.

Please tell us, was the post on the Bezjimjannaya Hill a part of our outpost?

A The Hill Bezjimjannaya was not included into our outpost, the Podgornaya. The Bezjimjannaya Hill was included into the sector guarded by the Podchikoriya Frontier Outpost.

Q And your post was a part of what frontier guard outpost?

A I have told you already that the post on the Zaozernaya Hill was a part of the Podgornaya Outpost and had no connection with the Bezjimjannaya Hill.

Q Under what circumstances did the clash of July 29 occur, and how did it happen that the Japanese were driven away from the Soviet territory despite their numerical superiority?

THE PRESIDENT: We do not want to hear that over again. You are making too much of this, Colonel. This is the longest re-examination in the whole history of this court.

COLONEL SMIRNOV: I will soon conclude my redirect examination, your Honor. I have two more questions.

Q When was the Red flag hoisted on the

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COLONEL SHIRNOV: I will soon conclude my redirect examination, your Honor. I have two more questions.

Q When was the Red flag hoisted on the

Zaozernaya Hill?

A The Red flag was hoisted on the Zaozernaya Hill after the unit of the regular Soviet Red Army on August 6 drove the Japanese away from that hill; that is, the Red flag was hoisted on August 6, in the morning.

Q That is clear. Was this flag there on July 28, 1938?

MR. FURNESS: I object, your Honor, on the ground that this does not in any way arise out of the cross-examination.

COLONEL SMIRNOV: Your Honor, I may qualify the reasons for which I am asking this question. In the testimony of defense witness MIURA, Kazuichi, who is defense counsel in this trial, on page 22,896 of the record, there is an indication that as far back as July 28, 1938, and in addition at the distance of three and one-half kilometers from the town of Sadzan, he saw a large Red flag on the Zaozernaya Hill, and that flag was so large that it could be clearly seen from the town of Sadzan. I consider it highly improbable that the frontier post, which was highly interested in the camouflage, should have hoisted such a large flag.

THE PRESIDENT: That has nothing whatever

to do with the cross-examination of this witness. The objection is upheld, and the question disallowed.

COLONEL SMIRNOV: My last question, your Honor.

Q What arms were used by you against the Japanese on July 29, when you assisted the frontier guard patrol on the Bezjimjannaya Hill?

THE PRESIDENT: He has already told us what arms they had. What they used I do not know, but what does it matter, anyway?

MR. FURNESS: I submit, your Honor, it is pure repetition.

THE PRESIDENT: Objection upheld.

COLONEL SMIRNOV: Your Honor, that concludes my redirect examination, and if the defense has no additional questions may I ask the Tribunal to release the witness on the usual terms.

MR. FURNESS: I have one question.

RECROSS-EXAMINATION

BY MR. FURNESS:

Q How wide is Lake Khasan?

A At some places one kilometer wide; at some places 50 meters.

Q Where did you swim across it? How wide was it where you swam?

A About 50 to 60 meters.

MR. FURNESS: I wish also to call attention to the fact that the map which the witness marked already had on it the border as contended by the Soviet.

THE PRESIDENT: He is released on the usual terms.

Wolf & Leffler

COLONEL SMIRNOV: Your Honor, I hope the Tribunal will bear with me a moment. I would like to offer the map marked by the witness. It was not offered by our side.

THE RUSSIAN MONITOR: Correction, please: "Will the Tribunal please excuse my omission."

COLONEL SMIRNOV: I would like to invite the attention of the Tribunal to the fact that the knowledge of the frontier was tested by means of a blind map which was offered by the defense.

THE RUSSIAN MONITOR: "...the knowledge this witness has..."

CLERK OF THE COURT: Photostatic copy of map marked by the witness, being originally exhibit 2175, will receive exhibit No. 3374.

(Whereupon, the document above referred to was marked prosecution exhibit No. 3374 and received in evidence.)

COLONEL SMIRNOV: May the witness be released on the usual terms, your Honor?

THE PRESIDENT: I have already discharged him on the usual terms.

(Whereupon, the witness was excused.)

COLONEL SMIRNOV: I call the next prosecution witness, Chernopyatko.

I V A N D. C H E R N O P Y A T K O, called as a witness on behalf of the prosecution, being first duly sworn, testified through Russian interpreters as follows:

DIRECT EXAMINATION

BY COLONEL SMIRNOV:

Q State your name, surname, and occupation. Observe the red light, please.

A Chernopyatko, Ivan Davidovitch, an officer in the infantry.

Q What is your military rank?

A Major.

Q In what arm do you serve?

THE RUSSIAN MONITOR: "Corps."

A I serve in the Border Guard Corps of the Ministry of Home Affairs of the U.S.S.R.

Q How long and in what capacity did you serve in the Posiet Border Guard Detachment?

A From 1936 to 1939 I served in the Posiet Border Guard Detachment, first, as a private, then as a junior officer, and then as commander of a platoon.

THE RUSSIAN MONITOR: "Non-commissioned officer" instead of "junior officer."

Q For participating in what military operations

were you awarded the highest honorary title, the Hero of the Soviet Union?

A The title of the Hero of the Soviet Union was awarded to me for participating in the fighting in the Lake Khasan area.

COLONEL SMIRNOV: May the witness be shown exhibit 755.

(Whereupon, a document was handed to the witness.)

Q Is it your affidavit? Is the exhibit 755 your affidavit?

A Yes, this exhibit is my affidavit.

Q Are the contents thereof true and correct, and do you confirm them?

A Yes, I do.

COLONEL SMIRNOV: I shall not read those parts of the affidavit which were not read into the record. The exhibit was admitted as a whole.

The defense may now cross-examine.

THE PRESIDENT: Major Furness.

CROSS-EXAMINATION

BY MR. FURNESS:

Q I understand from your affidavit that throughout the month of July you were in command of the platoon in the Lake Khasan region, is that correct?

A Yes, I served in the outpost of Podgornaya at that time. Most of the time I was in the Lake Khasan area -- most of the time I was at the Zaozernaya Hill.

Q And, when did you first arrive at the Zaozernaya Hill? In June or July of that year?

A At the Zaozernaya Hill, I first arrived at the beginning of July, 1938.

Q And, what was your rank at that time?

A Junior commander of a platoon.

Q Was that lieutenant, or doesn't it have any such rank in the border guard?

A No, this is not a rank. This was simply the post of a junior platoon commander.

THE RUSSIAN MONITOR: Correction: "No, this is a rank of non-commissioned officer, and this rank was called a junior platoon commander."

Q And, how many men were under you?

A I had approximately thirty men under me.

Q And, where was your post located with reference to Zaozernaya Hill?

A In general, I was attached to the frontier guard outpost at Podgornaya to be under the command of Tereshkin. That outpost had a permanent post at the Zaozernaya Hill.

MR. FURNESS: Could I ask the Russian interpreter to spell the name of that post?

THE RUSSIAN INTERPRETER: P-O-D-G-O-R-N-A-Y-A.

Q As I understand from previous testimony, that post is several kilometers from the top of Zaozernaya Hill, is that right? I am referring to the main post under Tereshkin at Podgornaya.

A No, the Podgornaya Frontier Guard Outpost was from the Zaozernaya Hill at a distance of about six-seven kilometers.

Q That is south of the border marked "T", is it not?

A Yes, that is southeast of the border marked "T".

Q Now, was Batarshin under you or was he over you in the chain of command, or was he in neither position?

A He was under Dubovoi, the platoon commander. Dubovoi was a commander of a reserve platoon.

THE RUSSIAN MONITOR: "Dubovoi was a commander of a reserve group of the detachment.

Q Did he then occupy the same rank that you did under Tereshkin?

A Yes.

Q Now, as I understand it, the first time that you went to Zaozernaya Hill this period was in July; is that correct?

A Yes, at the beginning of July.

I am sorry, I want to say that I was at the Zaozernaya Hill before.

THE RUSSIAN MONITOR: "I happened to be at the Zaozernaya Hill before."

A (Continuing) When I graduated from the school for non-commissioned officers, I was sent for probation on the Zaozernaya Hill -- to the Podgornaya Outpost. From that frontier guard outpost I dozens of times went to the observation post which was separated from the Zaozernaya Hill. From the Podgornaya Border Guard Outpost I served until March,

then was put into the reserve unit -- was transferred to the reserve unit. In July I was in the Zaozernaya Hill the second time, I mean in the second period.

Q Was the outpost on Zaozernaya established in July, 1938? Was it not?

A The post on Zaozernaya Hill was established a long time ago.

Q Now, can tell us where the border of Korea is with reference to Zaozernaya Hill?

A Yes, I can show that.

Q Tell us.

A I understood you that I will have to show the borderline between Korea and the Soviet Union.

Q I am asking from Zaozernaya Hill where is the border of Korea?

A The Korean border is along the Tumen-Ula River.

THE RUSSIAN MONITOR: "...is on the Tumen-Ula River."

Q Across that river there is a railroad, is there not?

A Yes.

Q Now, in the region of Lake Khasan and the Zaozernaya Hill the residents are chiefly Korean by race, are they not?

A I know nothing about it.

Q Do they speak Korean?

A Who are "they"?

Q The inhabitants of that region.

A Some of them do. I speak about the population which is on our territory.

Q Don't a good many of the population on your territory to the south of Podgornaya speak Korean?

A I can't say exactly that I know that there are some inhabitants who speak Korean.

THE RUSSIAN MONITOR: "...but I know..."

Q There are Korean towns, are there not, to the south along the Tumen- Ula River on the Soviet side of the border?

A On the Soviet side of the border there are some populated places.

Q Now, do you speak --

A (Continuing) There is a village of Podgornaya and Gryady.

Q Do you speak, read or write Korean?

A No.

Q Do you speak, read or write Japanese?

A No.

Q Can you understand Japanese?

A No.

Q Could you describe for us the way the border

runs from border mark "T"? In what direction.

A From border mark "T" the border runs in a northern direction along the crest of the Hill Dlinnaya and then along the crest of a group of hills which are situated between the Lake Khasan and the River Tumen-Ula, further along the watershed of the Zaozernaya Hill and then thence to the sandy ridge which is to the north of Zaozernaya Hill.

Q It was within that area that the fighting took place, was it not?

A The fighting took place on July 29 on the Bezjimjannaya Hill --

Q I just didn't want you to go any further --

A -- which is 300 meters to the east of the borderline, that is, on our territory.

Q That first hill that you mentioned after border mark "T" sounded like Dlinnaya. That is between border mark "T" and the southern end of Lake Khasan, is it not?

A This hill, which is called Dlinnaya by the border guards, has its foot near the border mark "T" -- almost near the border mark "T".

Q Is that running from Border Mark T? Does the border run in a northeasterly, northwesterly, or due north direction?

A As far as I know, the general direction is to the north, but at the same time somewhat in the north-eastern direction.

Q Now, the hill Zaozernaya is a long ridge, is it not?

A Yes, it is.

Q And it is the Soviet view that the border ran along that ridge, over the summit, and then further along the ridge, and then turned down, is it not?

A What direction from the Zaozernaya hill do you mean, the southern direction or the northern direction?

Q Regardless of the direction, it runs along the ridge, does it not, as you were taught?

A Yes.

Q Now, Bezjimjannaya means a hill without any name, does it not?

THE PRESIDENT: We do not want to hear that again, and I can assure you I am speaking for every Member of the Court.

MR. FURNESS: I am just trying to bring out that there are many hills in that region called that same way in the Russian language, but if the Court does not

care to hear it, I will not press it.

Q Now, in your affidavit you testified that for two weeks prior to the 29th of July 1938 you observed Japanese troops concentrating in the area, an infantry regiment strengthened by two artillery mortars and two artillery divisions --

THE MONITOR: Is that right, Mr. Furness?

MR. FURNESS: An infantry regiment strengthened by artillery and mortars.

Q There were two artillery divisions that you saw?

A As far back as the beginning of July we observed the arrival of the Japanese field troops, but through the middle of July we observed the increased concentration of Japanese troops on this sector.

Q But you say that you observed what I read to you, did you not? That is, an infantry regiment strengthened by artillery mortars and two artillery divions, is that correct?

You can answer that yes or no, I think.

A I can't say that because I didn't see the regiment marching in columns, but those positions which were held by the Japanese soldiers in those entrenchments which were for artillery range, trench mortars, spoke for themselves -- spoke about the strength of the

Japanese troops.

Q I want to tell you that I am reading from your affidavit, and if you didn't observe it I can't understand why you swore to your affidavit.

A I said that I didn't see the regiment in the marching column, but judging by the -- headed by the commander, but judging by the numerical strength and by the positions which had been previously prepared, I can assure the Tribunal that in that area was about a regiment of Japanese troops, reinforced by artillery and trench mortars.

Q How many men are there in a Japanese regiment of infantry?

A A Japanese regiment has about three thousand men.

Q Now, can you tell me what you meant when you wrote in your affidavit that you saw two artillery divisions?

COLONEL SMIRNOV: I have before me the Russian text from which I see that the witness speaks not of artillery divisions but of artillery battalions. If we speak in terms of infantry, then artillery division is artillery battalion, in fact.

THE PRESIDENT: We had better have that cleared up, but I understand the English translation

Japanese troops.

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THE PRESIDENT: We had better have that cleared up, but I understand the English translation

was supplied by the Russian prosecutor; is that so?

MR. FURNESS: I do want to object, too, your Honor, to the prosecutor taking the opportunity, in making his objection, to tell the witness what he thinks the witness ought to mean.

THE PRESIDENT: We have his affidavit in Russian and we can have it checked. It does not matter what the witness says; we can look at his affidavit in Russian.

COLONEL SMIRNOV: The original of the affidavit is in the Russian language, and is in the files of the Tribunal.

THE PRESIDENT: We shall have it looked into by some competent linguist.

Q When you reported the concentration of artillery, how many batteries did you intend to report?

A Approximately three batteries were there.

Q Did you mean two battalions?

A About three batteries -- there were about three batteries on a hill to the south from the village Hamoka. Two batteries were observed on the hill -- to the west of the hill which is to the northwest of Zaozernaya hill, and one battery was on the northern slopes of the hill which is to the northwest of the Zaozernaya hill.

THE PRESIDENT: Major Furness, I have a note here from a Member of the Tribunal who has experience in these matters. He says it is better, if it really matters, to talk in number of guns, as both batteries and regiments of artillery have different numbers of guns in different armies.

We will recess for fifteen minutes.

(Whereupon, at 1045, a recess was taken until 1100 after which the proceedings were resumed as follows:)

Greenberg & Y[illegible]

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Major Furness.

MR. FURNESS: I realize, your Honor, that it is better to speak of guns but I am using the language of this witness in order to find out what he means.

BY MR. FURNESS (Continued):

Q You, of course, reported this concentration of troops, stationing of artillery, mortars, and the building of fortifications to your superior officer, did you not?

A Yes, we reported daily.

Q And he reported it to the central authorities presumably, did he not, the Posiet detachment?

A They had to report by all means.

Q What caliber were these guns that you observed?

A These guns were about 70, 80 millimeters or 40 millimeters.

Q Were not all the guns which were on the territory to the east of the River Tumen small caliber guns, 37.5 or 40 millimeter guns?

A No, there were also guns of 70, 80 millimeters in caliber.

Q Were not all such guns, if any were there, on the other side of the River Tumen down near the village of Podgornaya? I am referring now to guns of over 40 millimeter caliber.

A I don't understand you. There were no guns on our territory.

Q I mean on the opposite side of the river, not your territory.

A I personally observed no artillery opposite the frontier guard outpost Podgornaya.

Q I mean near the village.

A And I saw no artillery near the village Podgornaya in the neighboring territory.

Q Were they not on the opposite side of the river? When I say the opposite side I mean the side furthest from Zaozernaya Hill.

A On the opposite side of the Tumen-Ula River we observed the intensive movement of transport vehicles and individual soldiers, but--

Q Now, I didn't ask you that. I asked you one simple question and I wish you would answer it; that is, were the guns, any guns over 40 caliber, on the territory across the Tumen River from Lake Zaozernaya? You can answer that yes or no and please do so.

I meant Hill Zaozernaya, I am sorry.

A Opposite the Zaozernaya Hill there were guns over 40 millimeters, the guns of 70, 80 millimeters in caliber.

Q And they were on the other side of the Tumen River, were they not?

A On the opposite side of the river, that is to say on the western bank of the river, we didn't exactly observe the positions, the gun positions, but we observed the movement of transport vehicles and soldiers.

Q All right, if you don't want to answer it. Now, you testified in your affidavit to the evacuation of civilian population from the village of Khamoki, K-h-a-m-o-k-i.

A Yes.

Q In other testimony before the Tribunal this is referred to as the village of Hamoka, H-a-m-o-k-a, and the village of Khomaku, K-h-o-m-a-k-u. They are all different spellings for the same village, are they not?

A I believe that these are names of the same village.

Q And that village is about 700 meters from the summit of Hill Zaozernaya?

A Yes, the eastern outskirts of this village are approximately 700 or 800 meters from the summit of the Zaozernaya Hill -- 900 meters.

Q Did you observe this concentration of troops and this evacuation personally yourself?

A Yes, I did.

Q Where were you when you observed it?

A I was on the Hill Zaozernaya at the observation point -- post.

Q How many meters from the border as claimed by the Soviets?

A I was approximately a meter or a meter and a half to the east of the border line between Manchuria and the USSR.

Q And you, of course, reported this evacuation to your superior officer, and he reported it to the headquarters of the Posiet Detachment.

A Yes, and besides, my commander was personally on the hill and observed this personally. The commander often was himself on the hill and often observed himself.

Q That evacuation took place on the 21st of July, 1938?

A We observed the beginning of July, but the last stage of the evacuation was on July 24 - 25.

RUSSIAN MONITOR: Correction, please: Instead of "beginning of July, "first half of July."

Q Now, exhibit 753 indicates that the inhabitants staged a demonstration of indignation on the 24th of July, three days later. Do you know anything about that?

THE PRESIDENT: Major Furness, before he answers, the Court in reading their maps would like to know what is the English equivalent of a "verst." What distance?

MR. FURNESS: I am informed, your Honor, that it is approximately one kilometer.

THE PRESIDENT: Which is about three-fifths of a mile, is that so, five eighths?

MR. FURNESS: Five-eighths of a mile, sir.

I didn't hear the witness' answer to my last question, if he answered it.

THE PRESIDENT: It had better be repeated. I interrupted.

A There was no demonstration in the Hamoka village, but there was the staging of the demonstration in that village.

Q Now, the building of the entrenchments and fortifications and the evacuation of the civilian population was all on territory within the borders of Manchukuo, was it not?

A The evacuation of the population was conducted from the Manchurian territory to the Korean territory across the Tumen River. The border line between Manchuria and Korea runs on the Tumen-Ula River.

Q The evacuation and the building of fortifications was all within the territory of Manchukuo, was it not? Now, please answer that yes or no.

A Yes. The evacuation was conducted from the Manchurian territory into the Korean territory.

Q And the fortifications were all in Manchurian territory, were they not?

A Yes, the fortifications were on the Manchur-

ian territory into the Korean territory.

Q And the fortifications were all in Manchurian territory, were they not?

A Yes, the fortifications were on the Manchurian territory, but we observed the movements of troops on the Korean territory as well.

Q And it was obvious, was it not, that this evacuation and building of fortifications was because fighting was expected in that area?

A Yes, we expected that probably the fighting will start in this territory.

Q And do you know anything about the killing of a Japanese gendarme on the southern slope of Mount Zaozernaya which is reported in exhibit 753, which purports to set forth information received from the Posiet Detachment?

A I know that the gendarme was shot on the southeast slope of that hill.

Q Do you know that his name is MATSUSHIMA?

A No, I don't know that.

Q And were two other Japanese gendarmes captured about that time?

A I know nothing about the gendarmes, but I know that two local residents were detained.

Q Now, in your affidavit you testify that

between the 18th and the 20th, at different times, the Russian frontier guards captured two local civilians with letters from the Khunchun Japanese Detachment addressed to the chief of the 59th Frontier Detachment demanding withdrawal of Russian forces from Zaozernaya Hill. I will read to you parts of a report which is included in exhibit 753, page 5.

COLONEL SMIRNOV: Evidently, the defense counsel is going to read the same supplement to the exhibit which was read yesterday. In our submission, it is a waste of time; and besides, this exhibit has no bearing whatever to the witness, and the report cannot be identified by the witness as it was not written by him.

THE PRESIDENT: He is entitled to do this as he was in the case of the preceding witness.

MR. FURNESS: I submit to your Honor that after the objection the witness may know exactly what to say.

"On July 23, . . . at 5.00 hours a frontier guard patrol 5 men strong under the section leader Zhavgorodnin with a light machine gun, located on our territory 4 Japanese and Manchurian soldiers with a light machine gun. A cavalry platoon under Captain Magalov was sent forward from the outpost. . . . . Magalov discovered at the spot on our territory 120-150 meters from the frontier line where the transgressors were seen one telegraph pole was pulled down and 14 meters of wire was carried away. There were revealed footprints as well leading to the adjacent territory. In this place white flag and a letter written in the Korean language of the following contains:

"'On July 16 a letter was sent in the district of the long island:

"'(1) Immediately answer this letter.

"'(2) Immediately withdraw from our territory in the Lake Khassan area, if not situation will become grave.

"'(3) The questions which recently arose between us is becoming tense, we are always ready to start negotiations on the frontier line of outpost

Khunchun. I want to know your opinion.'"

Do you know anything about this incident?

A Colonel Grebennik, commander of the detachment, reported to me -- told me as an officer that such an occurrence was somewhat to the north of the Zaozernaya Hill.

THE RUSSIAN INTERPRETER: We spell the name of the colonel, G-r-e-b-e-n-n-i-k.

Q Now, was this the same letter regarding which you testified in your affidavit?

A This is the second letter.

Q But the jist of the letter which I have just read to you is the same as the letter which you remember having been told about by this Grebennik?

A Yes, it is approximately so.

Q Now, did the Soviet frontier guards dig any entrenchments, string any barb wire, or build any other military fortifications in this area prior to July 29?

A Prior to July 29 the border guards constructed no fortifications there.

Q And there remained during that period only 30 border guards on that hill?

A Originally there were fewer border guards, but since the 16th there were 30 border guards.

Q And they were the only military forces on that hill?

A Yes.

Q Now, in your affidavit you testify on the second page that on the 29th a clash occurred with an adjacent Soviet frontier guard consisting of 11 frontier guards. Where were you at this time?

A At that time I was on the Zaozernaya Hill.

Q Near the summit?

A Yes.

Q About one meter or one meter and a half from the border? Correct?

A No. When I observed the fighting -- this fighting, we came down somewhat the eastern slope of the Zaozernaya Hill.

Q Now, I read to you an account of a clash which appears in exhibit 753 on page 4:

"According to the Posyet frontier guard detachment report on July 29, 1938 at 16.00 hours the Japanese and Manchurians launched a two group offensive against a no-name hill, on the frontier line two kilometers north of the hill 'Zaozernaya.'"

COLONEL SMIRNOV: I object to the reading of this document, your Honor, as the document has already been admitted in evidence and reading it is a

waste of time.

THE PRESIDENT: Can't you summarize, Major Furness? We have every sympathy with that objection.

MR. FURNESS: I'll try to leave out the parts which I don't care to stress.

"The first group - 50 men strong with a light machine gun.

"The second group - nearly a company, attacked a no-name hill 1000 metres northwest of the hill 'Zaozernaya.' . . . Our frontier guard patrol withdrew.

"A group from the garrison on 'Zaozernaya' hill . . . marched out to support it.

"The group advancing from the 'Zaozernaya' hill is engaged in a skirmish with the group of Japanese soldiers on our territory.

"The observation is made difficult by dense fog."

Is that an accurate report of the skirmish as you observed it?

A No, this is a somewhat distorted picture of the events. First of all, the no-name hill is not to the northwest of the Zaozernaya Hill but to the northeast.

THE PRESIDENT: You should be satisfied with that. You are putting prosecution evidence to him, aren't you, and you are getting these answers. Why do you want to follow it up?

MR. FURNESS: I don't care to. It is testimony of his own detatchment, contemporary, not with any trial in mind and not after testimony -- other testimony -- has been submitted to this Tribunal.

THE PRESIDENT: We fully appreciate that. He is, however, asked to recollect over eight or nine years, I forget which, and here you have a document written at the time by a responsible person and yet you want to continue this cross-examination.

MR. FURNESS: I will let it go.

COLONEL SMIRNOV: I would like to call the attention of the Tribunal to the fact that from the title of this document it can be seen that this isn't a report of his own detachment but a report of the Chief of the People's Commissariat for Home Affairs, Frontier Corps, in that district.

RUSSIAN MONITOR: Of the Far Eastern district.

RUSSIAN INTERPRETER: Of his district.

Q At any rate there was fog at that time, was there not?

A There was fog in the dell between Zaozernaya

Hill and the Bezjimjannaya Hill.

Q Was it raining?

A Yes, it was. There was a slight rain; it was drizzling.

Q Well, now, as I understand it you came up with your detachment of four men, is that correct? I will withdraw that question. I will withdrew the question and substitute:

You ordered the detachment to go in support of the men who were engaged in the skirmish with the Japanese, is that correct?

A That was ordered by the commander of the outpost, Tereshkin.

Q All right. Now going on to the night of the 31st of July, 1938, as I understand it about twelve o'clock that night on a reconnaissance party you heard Japanese speech.

A Yes, as you say.

Q What were they saying?

A As I don't know Japanese, I don't know what they were saying.

Q How did you know it was Japanese at all?

A We were getting letters on behalf of the Japanese commander, which letters contained demands that we should withdraw from Zaozernaya Hill. The

troops under Japanese officers were opposite us. It was quite clear that the Frenchmen couldn't appear during the night.

Q Those letters were in Korean, weren't they?

A The Japanese were bossing the show both in Manchuria and Korea and they didn't observe the border line between Korea and Manchuria.

Q I asked you whether those letters were in Korean, were they not?

A One letter was in the Korean language.

Q Now, I gather that even after this skirmish on the 29th there were no reinforcements and no building of any fortifications on that hill, is that correct?

A Just as you say.

Q All right. Now you were wounded and went out of action on the morning of the first of August, did you not?

A It was on the morning of August the 31st.

Q You mean August 1, don't you?

A I was put out of action on the morning of August the 31st.

THE PRESIDENT: July 31.

THE WITNESS: I mean July the 31st.

MR. FURNESS: The testimony of both witnesses was that the action started about midnight of the 31st,

your Honor, so it would be the morning of August 1, I take it.

THE WITNESS: The fighting began on the night from July 30 to July 31.

COLONEL SMIRNOV: It seems to me that my learned counsel is misquoting the evidence because in all the evidence it is stated that the events occurred on the night of July the 31st, from July the 30th to July the 31st.

MR. FURNESS: Well, his testimony is that he was on a reconnaissance party on the night of July 31, 1938, and at twelve o'clock that night he heard Japanese speech, so I assume that it was after that that he was wounded.

THE PRESIDENT: Well, we can read his affidavit.

MR. FURNESS: It appears on page 2.

COLONEL SMIRNOV: I have before me the Russian text of the affidavit and it is said here in black and white that the events did not occur during the night of July the 31st but on the night of July the 31st.

THE PRESIDENT: Well, what is the difference?

RUSSIAN INTERPRETER: On July 30, 31.

RUSSIAN MONITOR: On the night between July 30 and 31.

THE PRESIDENT: We will adjourn until half

past one.

(Whereupon, at 1200, a recess was taken.)

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Duda & Sprecht

AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: With the Tribunal's permission the accused OSHIMA and TOGO will be absent from the courtroom for the whole of the afternoon session conferring with their counsel.

General Vasiliev.

GENERAL VASILIEV: Your Honor, the prosecution would like to have the permission of the Tribunal to submit on Monday or after the completion of KOISO's case, its views as to the affidavits of the Japanese witnesses, prisoners of war, not produced before the Tribunal. At the request of Mr. Chief Prosecutor, Mr. Tavenner is preparing argument on this subject. We are raising this question now because if the Tribunal rules to hear the argument immediately after the examination of Chernopyatko, we have to use the time taken up by the remainder of the affidavit of the witness for preparing the argument.

THE PRESIDENT: We will hear that argument on Monday.

GENERAL VASILIEV: Thank you, your Honor.

MR. BLAKENEY: I should like to inquire what the nature of the matter to be argued is and whether any reply is expected from the defense.

THE PRESIDENT: We do not know what the argument is before we hear it. We refer you to the Chief Prosecutor.

MR. BLAKENEY: Well, may I simply point out that according to our understanding this matter of the affidavits of witnesses who have not been produced was closed by the order of the Tribunal entered on the 17th of June, which order has been executed.

THE PRESIDENT: The Court has given no intimation to the contrary. I explained the Court's attitude when this matter arose before.

MR. BROOKS: Since I am following with the presentation of KOISO's case, I wish the Tribunal would consider trying not to interrupt the orderly presentation of that defense by any long argument.

THE PRESIDENT: There is no present intention of interrupting KOISO's case.

MR. BROOKS: I understand that KOISO will go on this afternoon; that is, his case will commence this afternoon, with the very little amount of time left.

THE PRESIDENT: How many items have you on

your order of proof, Captain Brooks?

MR. BROOKS: I believe there is eleven or twelve, your Honor.

THE PRESIDENT: We assumed that you would finish well within a day. We may be wrong about that.

MR. BROOKS: A lot depends on the prosecution, your Honor.

THE PRESIDENT: Major Furness.

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I V A N D. C H E R N O P Y A T K O, called as a witness on behalf of the prosecution, resumed the stand and testified through Russian interpreters as follows:

CROSS-EXAMINATION

BY MR. FURNESS (Continued):

Q Major, as I understand it, this fighting that you have just testified to began about midnight?

A Yes, that started at midnight, on the night from the 30th of July to the 31st of July.

Q And you were wounded and went out of action six hours later; is that correct?

A Yes, after six or seven hours.

Q So that you took no part in the fighting after that date?

A No.

Q Now, the witness Tereshkin testified on page 7781 of the record that only frontier guards took part in this later fighting on Hill Zaozernaya, and according to your affidavit these guards numbered thirty men. I gather from that that even after the fighting on the 29th no reinforcements were brought up to defend the hill. That is correct, is it not?

A No, that is not correct.

COLONEL SHIRNOV: It seems to me that the defense counsel must faithfully quote Tereshkin. It is clear that Tereshkin was wounded on the 31st, himself, as is seen from his testimony, and he wasn't on the battlefield after the 31st. There is nothing about that in his testimony, and he couldn't give any testimony concerning that battle.

MR. FURNESS: He assumed to give testimony, and I really think that when these objections are made the counsel for the prosecution should not state the evidence so as to remind this witness what he should testify. He was apparently wounded at about the time that this man was wounded.

THE PRESIDENT: The objection is overruled.

Q That is correct, only Soviet frontier guards took part in that fighting; is it not?

A No, that is not correct. During that night

Q Now, the witness Tereshkin testified on page 7781 of the record that only frontier guards took part in this later fighting on Hill Zaozernaya, and according to your affidavit these guards numbered thirty men. I gather from that that even after the fighting on the 29th no reinforcements were brought up to defend the hill. That is correct, is it not?

A No, that is not correct.

COLONEL SHIRNOV: It seems to me that the defense counsel must faithfully quote Tereshkin. It is clear that Tereshkin was wounded on the 31st, himself, as is seen from his testimony, and he wasn't on the battlefield after the 31st. There is nothing about that in his testimony, and he couldn't give any testimony concerning that battle.

MR. FURNESS: He assumed to give testimony, and I really think that when these objections are made the counsel for the prosecution should not state the evidence so as to remind this witness what he should testify. He was apparently wounded at about the time that this man was wounded.

THE PRESIDENT: The objection is overruled.

Q That is correct, only Soviet frontier guards took part in that fighting; is it not?

A No, that is not correct. During that night

one platoon of field troops came up to us and they also participated in the battle.

Q That was about thirty men, was it?

A Yes, thirty men.

Q So that if eleven men were killed or wounded in the fighting on the 29th, fifteen to twenty killed on the night of the 30th and 31st, that left approximately twenty men on that hill, didn't it?

A No, that is not correct, because the frontier guard patrol which was on the Bezjimjannaya Hill was not a part of the patrol which was on the Zaozernaya Hill. These were two separate patrols from two separate outposts on the Bezjimjannaya Hill. On the Bezjimjannaya Hill there was a patrol from the Podchikoriya Border Guard Outpost and on the Zaozernaya Hill there was a patrol from the Podgornaya Border Guard Outpost.

Q It left only sixty men then, is that what you mean?

A There were sixty men on the Zaozernaya Hill.

Q All right. Now, did you at the time that you gave your testimony in this affidavit, just before that time or during that time, talk with the witness Tereshkin regarding your testimony in this matter?

A No, I had not talked with Tereshkin.

Q Did you ever talk to Batarshin?

A No, before giving my testimony I had no talks with Batarshin. He was suddenly summoned in the morning

of that date, and in the afternoon I was summoned. Batarshin brought me to the building in which we gave testimony, and I went into that building. I was summoned to give testimony.

Q Did you discuss with him what your testimony was to be and what his testimony was to be?

A No, we had no talk of that kind on that subject.

Q Did you come here from Russia to Tokyo with Batarshin?

A Yes, we came together.

Q Did you at any time during that trip discuss your testimony on this matter with Batarshin?

A No, when we were coming here we had no talks on that subject, but when we came here we discussed the matter in general terms, but not specifically.

Q And did you discuss with him or with anyone else his testimony before this Tribunal yesterday?

A I asked him how the examination went, and he told me that he had told in court all that he knew -- all that happened. There was no use for us to discuss the subject in detail as we saw the same things ourselves and observed them ourselves.

Q Curiously enough, that is just what he said, in almost the same words.

THE PRESIDENT: That is a matter for comment.

MR. FURNESS: That concludes the cross-examination, your Honor.

THE PRESIDENT: Colonel Smirnov.

COLONEL SMIRNOV: I have only three or four questions to the witness.

REDIRECT EXAMINATION

BY COLONEL SMIRNOV:

Q Mr. Witness, defense counsel asked you a question about a demonstration that was arranged in the village opposite the Zaozernaya Hill, on the north-west of the Zaozernaya Hill. Your reply was interrupted by defense counsel. What kind of demonstration was it?

A Four men arrived at the village. They had with them movie cameras. Probably according with their orders, forty men were gathered -- thirty men were gathered. -- Evidently according to their order, thirty men were gathered that were men from the Hamoka Village. All of them were gathered at a square which was clearly seen from the Zaozernaya Hill. One of the men who came to that village began to deliver a speech, waving his hands and pointing in the direction of the Zaozernaya Hill. At that time a film was made of it. Then, the gathered men were ordered to march past the movie camera. They were walking slowly and didn't wave their hands

and after that one of the men who came to the village stopped them, and then he stepped forward and began to show them how they should walk, how they should wave hands and shout. After that, the gathered men did what that man told them to do, obediently did that. That was not a demonstration of indignation, but a revolting demonstration.

Q I am not interested in that. That is your comment.

The second question: Is it known to you when the Soviet field troops were brought into action on the Zaozernaya Hill?

A One platoon of field units was brought into action on the night from the 30th of July to 31st of July. But I don't think you can call it field troops. The regular army units were brought in later. I don't know when. I can only tell that on my way to the hospital in Vladivostok, I met columns of army units which were quickly marching to the place of the clash in the area of the Zaozernaya Hill.

Q On what date was that?

A That was the 31st of July -- in the afternoon of the 31st of July.

Q Replying to defense counsel's question, you said that the post on the Zaozernaya Hill was established prior to July, 1938. Can you tell us when this post was established?

A I can't tell exactly when this post was established.. When I was in that area in 1937 that post had already been established -- in the beginning of 1937 that post had already been established there, and the veteran border guards told me that that post had been established a long time ago, and they didn't know exactly when.

Q And my last question. Were you on the Zaozernaya Hill on July 11, 1938?

A Yes, I was on the Zaozernaya Hill on the 11th of July, 1938.

MR. FURNESS: I object, your Honor. This does not arise out of cross-examination.

THE PRESIDENT: Well, if he had asked permission before the cross-examination, I have no doubt he would have received it, because other witnesses were allowed to supplement their affidavits. You must get our permission, of course. I do not

know whether the Court is inclined to give it. They may not think it is worthwhile.

COLONEL SMIRNOV: May I explain why I have asked that question?

THE PRESIDENT: That is what the Court desires to hear.

COLONEL SMIRNOV: I don't know whether it is proper to give this explanation in the presence of the witness.

MR. FURNESS: If the Soviet prosecutor doesn't know if it is proper, I am certain that it is not.

THE PRESIDENT: Well, we are not bound by your opinion, Major Furness.

I think it should be a matter that could be explained without asking the witness to retire. We could do that, if necessary.

There is no need to translate -- oh, you will speak in Russian, of course.

COLONEL SMIRNOV: I'd like to refer to two pages of the record, that is, 22,923 and 22,900 and to some other documents.

THE PRESIDENT: You need not be so cryptic, Colonel Smirnov. If this were a new matter altogether, you would be entitled to take the witness

outside and prepare his affidavit.

I don't know why you can't allow him to hear what you are going to say.

COLONEL SMIRNOV: It is not a new matter, your Honor. Simply, in the defense evidence was contained mention of some events that took place on July the 11th, 1938, on the part of the Soviet border guards on Zaozernaya Hill. In order not to call this witness once more in rebuttal, and this is an eye witness and his testimony is conclusive, I want to ask him what happened on Zaozernaya Hill on July the 11th.

MR. FURNESS: If your Honor please, if this were a new matter, he would be required under the rules of the Court to make an affidavit and submit it to us in advance.

THE PRESIDENT: A majority of the Court is against allowing the question to be put.

BY COLONEL SMIRNOW (Continued):

Q Mr. Witness, tell us: Had the post on Zaozernaya Hill any characteristic features that could be observed from Manchurian territory?

MR. FURNESS: If your Honor please, this again is new matter and doesn't arise out of the cross-examination in any way.

THE PRESIDENT: Objection allowed.

COLONEL SMIRNOV: In that case, your Honor, I would like to have your direction on the following subject. Two defense witnesses gave testimony on those very important incidents in the given case. Both of them were never on the Zaozernaya Hill themselves. I mean TANAKA, Ryukichi, and MIURA, Kazuichi.

Thus, the defense was permitted to produce two witnesses, neither of whom was present on the Zaozernaya Hill as an eye witness. The present witness is an eye witness who was on the Zaozernaya Hill on the 11th of July and at a later date, too.

May we produce his affidavit without recalling him in rebuttal, in order not to keep him for a few months in Tokyo until the rebuttal starts?

THE PRESIDENT: That very point has been placed before the Court already and decided against you, Colonel Smirnov. You should have included it in his affidavit originally.

COLONEL SMIRNOV: Yes, your Honor, but in March of 1946 we were not in a position to know what evidence the defense would produce, say, in May, 1947. There is only one issue involved.

THE PRESIDENT: But, you had another witness before this. You produced a supplementary affidavit,

and it was allowed to be read.

COLONEL SMIRNOV: We presumed that we would be allowed to ask one question. We mean to ask only one question.

THE PRESIDENT: On the same matter that has already been decided? No, because we are not going to reopen the decision.

You may be able to give this evidence in rebuttal. I am not in a position to say.

COLONEL SMIRNOV: It means, your Honor, that we have to recall -- to bring this witness here from Moscow again.

THE PRESIDENT: The Court is well aware of the consequences of any order it makes.

COLONEL SMIRNOV: Yes, your Honor. In that case, I will ask another question which is within the scope of the cross-examination.

Q When was the first clash between the Japanese and the Soviet troops in the area of the Bezjimjannaya and Zaozernaya hills?

A The first clash between the Japanese forces and the Soviet border guards occurred on July 29th on the Bezjimjannaya Hill. The Bezjimjannaya Hill is 300 meters away from the State borderline to the east of that State borderline.

Q All the rest the Court already knows, Witness.

Were there any other clashes besides the killing of the gendarme prior to the 29th of July?

A No fighting clashes were there prior to July 29, neither in the area of the Bezjimjannaya Hill nor in the area of the Zaozernaya Hill.

Q Were there any troop movements or the construction of fortifications on the western slope of the Bezjimjannaya Hill, in general, or prior to that time conducted by the Soviet forces?

MR. FURNESS: I submit, your Honor, this is mere repetition and therefore I object to it.

THE PRESIDENT: Objection upheld.

COLONEL SMIRNOV: That concludes my redirect examination, and, if the defense has no questions, I ask that the witness be released on the usual terms.

THE PRESIDENT: He is released accordingly.

(Whereupon, the witness was excused.)

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COLONEL SMIRNOV: However, in connection with the statement made by defense counsel that according to Tereshkin's statement only border guards participated in the fighting after July 31, I invite the attention of the Tribunal there is nothing of the kind at page 7,782 of the record. And the testimony of Tereshkin was over on July 31 when Tereshkin was wounded.

That is all, your Honor.

THE PRESIDENT: Major Furness.

MR. FURNESS: If your Honor please, my reference to the record was, I think, page 7,781, not '82.

In connection with this testimony I wish to call the attention of the Tribunal to the following pages in the record: Testimony of the witness MIURA, pages 22,879 to page 22,902; the testimony of the witness TANAKA, Ryukichi, pages 22,713 to 22,728 of the record, pages 22,740 to page 22,751 of the record and pages 22,943 to 22,968 of the record. This is all of the testimony of May 21 and May 23, 1947.

As Mr. Blakeney has stated, the defense will ask leave to reopen its case to introduce evidence

in reply to this evidence which has been received by the Court.

THE PRESIDENT: That position has been fully covered in the Tribunal's announcements.

What is the next business?

MR. BROOKS: If your Honor please.

THE PRESIDENT: Captain Brooks.

MR. BROOKS: I believe that the prosecution has an announcement on the first document on the order of proof.

THE PRESIDENT: Mr. Sutton.

MR. SUTTON: May it please the Tribunal, the prosecution has made an investigation to determine whether or not the translator's note, which appears in exhibit No. 2214 at page 15,817, lines 14 to 16 of the transcript, was correct. The translator's note recites that the word "KOISO" should be substituted for "ARITA."

Our investigation has disclosed that the translator's note is erroneous, and that the word "ARITA" appearing on line 14, page 15,817 of the record is correct and that the portion of exhibit No. 2214 which begins on line 14, page 15,817 with the words, "Japan was convinced ARITA emphasized..." and continuing to the end of the exhibit is the

report of a speech made by ARITA and no part of this portion of the exhibit should be attributed to KOISO.

MR. BROOKS: In relation to exhibit 2214, record page 15,813, I wish to direct the Court's attention to the original of this exhibit which consists of photostatic copies of captured German documents.

The first page of this exhibit is apparently with editorial guarantee and seems to be continued on another page. However, notice what is printed on top of page 2: "Raw Material. For personal information only without editorial guarantee." Then in brackets: "(Continuation from page blank)" without naming any page. We submit there is no connection between these two documents.

Then notice on 5th line from the bottom of page 1 of the English copy of exhibit 2214 that where previous sentences were all double spaced, from here on it is all single spaced -- this is on the original copy in German -- with the words "Japan was convinced, ARITA emphasized, of the necessity of further strengthening the Anti-Comintern Pact." (Line 14, record page 15,817)

This sentence expressing emphasis gives the tone or refers to the previous statement being made

by ARITA but not being emphasized.

Also, as the prosecution has pointed out, translator's note, sic, error for KOISO, as shown in line 4 from the bottom of page 1 of exhibit 2214 in English does not appear in the original German text and should be deleted from line 15 and 16 of record page 15,817.

For the above reasons we move that the Court strike and disregard that part of exhibit 2214 from the record, starting with page 15,816 at line 15 to page 15,818, line 5.

THE PRESIDENT: The Court will consider the application.

Do you wish to be heard, Mr. Sutton.

MR. SUTTON: The prosecution respectfully submits that the only error is the one pointed out by the prosecution.

MR. BROOKS: In answer, your Honor, I can say a careful examination of the original German document and the photostats will bear out my statement.

Mr. President and Members of the Tribunal, we will now present the case of Kuniaki KOISO. We do not desire to make an opening statement.

We call as our first witness KOISO, Kuniaki.

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Knapp & Kaplen

K U N I A K I K O I S O, an accused, being first duly sworn, testified through Japanese interpreters as follows:

DIRECT EXAMINATION

BY MR. BROOKS:

Q State your name to the Court.

A KOISO, Kuniaki.

MR. BROOKS: I ask that the witness be handed defense document 2531.

(Whereupon, a document was handed to the witness.)

Q Is that your affidavit?

A Yes.

Q Have you signed it and is it true and correct?

A I have some corrections to make -- three places.

Q In the English or Japanese?

A I think both in the Japanese and English texts. I refer to paragraph 2 of the first section -- numbered section.

THE INTERPRETER: Second paragraph under the section numbered 2, first line of paragraph 2 in the paragraph numbered 2, which begins "In order to readjust at least nominally."

The witness asked correction by striking out the word "nominally" and replacing it with the word "equipment."

THE PRESIDENT: That doesn't read so well either. It reads now "In order to readjust at least equipment." It could be right.

THE INTERPRETER: Mr. President, in order to make the English readable, the change in that one word will require a change almost in the entire sentence.

THE PRESIDENT: We will leave it at that for the time being.

MR. BROOKS: I might suggest, your Honor, that some of these changes that will be made might be made by an errata sheet later if the prosecution has no objection to it. It will save a lot of time.

THE PRESIDENT: That is so. Are the other two corrections extensive?

MR. BROOKS: I don't know, your Honor. I didn't even know about this one.

THE INTERPRETER: The witness said: "The next correction pertains to the numbered paragraph 21 on page 19 and going on to 20 of the affidavit."

Line 12 from the bottom of page 20, the date August, 1939, should read May, 1939. That is correction No. 2.

The third correction: paragraph numbered 27, page 26, line 2 from the bottom, "autumn in 1939" should be revised to read "spring of 1939."

That is all in so far as corrections are concerned.

Q Is it true and correct as corrected?

A Yes, true and correct.

MR. BROOKS: We offer defense document 2531 into evidence.

THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document 2531 will receive exhibit No. 3375.

(Whereupon, the document above referred to was marked defense exhibit 3375 and received in evidence.)

MR. BROOKS: Omitting the formal parts, I now commence reading defense document 2531, exhibit 3375:

"1. I was born on 22 March, 1880, and was commissioned an infantry second-lieutenant in June, 1901. I was promoted to the rank of major general in December, 1926.

"I was appointed Chief of the Military Affairs Bureau of the Army Ministry in August, 1930, and promoted to the rank of lieutenant-general in August, 1931. I was assigned as Commander of the Korean Army from 2 December 1935 to 15 July 1938, and was promoted to the rank of full general in November, 1937. I was attached to the Army General Staff on 15 July 1938, and in the same month was placed on the reserve list ending my career as a military man.

"After retirement from the Army I had no further connections whatever with military affairs and my political activities were limited to the time and duties of the offices to which I was appointed but which I did not request but accepted only as a duty to my country.

"2. After World War I the armaments of the military forces became obsolete. As there were movements for their reduction due to the pressure of public opinion, the military improvement was not satisfactory

MR. BROOKS: Omitting the formal parts, I now commence reading defense document 2531, exhibit 3375:

"1. I was born on 22 March, 1880, and was commissioned an infantry second-lieutenant in June, 1901. I was promoted to the rank of major general in December, 1926.

"I was appointed Chief of the Military Affairs Bureau of the Army Ministry in August, 1930, and promoted to the rank of lieutenant-general in August, 1931. I was assigned as Commander of the Korean Army from 2 December 1935 to 15 July 1938, and was promoted to the rank of full general in November, 1937. I was attached to the Army General Staff on 15 July 1938, and in the same month was placed on the reserve list ending my career as a military man.

"After retirement from the Army I had no further connections whatever with military affairs and my political activities were limited to the time and duties of the offices to which I was appointed but which I did not request but accepted only as a duty to my country.

"2. After World War I the armaments of the military forces became obsolete. As there were movements for their reduction due to the pressure of public opinion, the military improvement was not satisfactory

for the nation to wage any war and the condition of military equipment, materiel and ammunition industries grew alarming from the ndpoint of national defense requirements.

"In order to readjust at least equipment the mobilizable strength of thirty-two divisions, which heretofore had been the basis of the wartime fighting strength, was reduced to twenty-eight divisions after April, 1931. Moreover, about the time of the outbreak of the Manchurian Incident in September of the same year, a proposal was under consideration to further reduce our peacetime strength of 17 divisions by reducing and changing the Imperial Guard Division to simply the Imperial Bodyguards and abolishing the two divisions of Utsonomiya and Kyoto. This was the state of the Army's strength which I learned through performance of duties in the Military Affairs Bureau, and the Military Equipment Bureau.

"After I assumed the post of Chief of the Military Affairs Bureau I heard of the frequent occurrence in China, particularly in Manchuria, of acts committed by Chinese arising from anti-Japanese sentiment, of the infringement of Japan's vested interests, of interference with the Japanese right of residence and business, and of acts endangering their lives and

properties, and that as the result of these incidents, feeling between Chinese and Japanese residents in Manchuria was becoming daily more strained. In view of the situation at home and abroad as stated above -- I do not remember the exact date -- I presented my view to the War Minister and Vice-Minister on how to avoid war, by adhering to the policy of patience and forbearance in the face of any developments of situation in China, especially in the Manchurian area.

"Being aware of the situation, both the Minister and the Vice-Minister agreed with me. I expressed this view also to the Vice-Chief of the General Staff, and I found him entertaining entirely the same opinion.

"I also heard that because of such condition of the military forces the Chief of the Army General Staff KANAYA sent Major General TATEKAWA to Manchuria in the middle of September, 1931 to transmit to the Commander of the Kwantung Army the central army authorities' intention of adhering to a policy of patience and forbearance, regardless of developments."

THE PRESIDENT: This is a convenient break. We will recess for fifteen minutes.

(Whereupon, at 1445, a recess was taken until 1500, after which the proceedings were resumed as follows:)

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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Captain Brooks.

MR. BROOKS: Language section, when we get to numbered paragraph 27, there will be a pause for a brief statement at the end of paragraph 2 and paragraph 3 of paragraph 27 in relation to those documents, as requested by the prosecution.

THE PRESIDENT: We propose to adjourn at twenty minutes to four to review the Military Police under the command of Lieutenant Colonel Kenworthy.

MR. BROOKS: Continuing reading exhibit 3375, starting at paragraph 3, page 3 of the English text:

"3. Some of the young officers of the armed forces became extremely indignant over the condition of armaments, and because they thought certain internal political practices were disregarding the interests and welfare of the nation some of these young officers planned to effect administrative reforms with certain civilians and some did individually do so. Actual instances of their actions are the March and October Incidents, which were successfully nipped in the bud, and the May 15th and the February 26th Incidents. Officers on the active list of army and navy had been prohibited as a matter of policy from engaging in

political activities in such a way.

"Dr. OKAWA and his followers resented corrupt party politics and wanted to reform the internal political system by giving birth to a cabinet under the premiership of General UGAKI, who was then War Minister. Dr. OKAWA wanted General UGAKI to take an active post but the plan they formulated was reckless and it met with General UGAKI's refusal and they were thus obliged to abandon the plan.

"This was the so-called March Incident, and had no relation with the Manchurian Incident to my knowledge.

"In relation to the above, I was requested by Dr. OKAWA, whom I met for the first time, to make arrangements for him to see General UGAKI, so that he could inform the General of his plan. After asking the nature of the plan that he wanted to suggest to the General, I voiced my disapproval of arranging for an interview to suggest such a reckless plan and advised the Doctor to abandon it. I recall that the Chief of the Appointment Section of the Army Ministry at that time, Colonel OKAMURA, Yasuji, was present at this discussion. Dr. OKAWA, however, refused to listen to my advice, and persisted in his request to see the

War Minister. I said to him, if he handed me his plan in writing, I could report it to General UGAKI. As I expected, on reading this document, General UGAKI flatly rejected the plan and I informed Dr. OKAWA of this which ended our discussion thereon. Prior to this, when I had asked Dr. OKAWA for the plan in writing and he answered that he would submit it after consulting and making it out with others, I inquired who 'the others' were. He did not reveal their names, but, this is when I learned that they were young officers of the Army General Staff.

"As I was in a position as chief of the Military Affairs Bureau which required me, by virtue of my office in the War Ministry, to discourage military men from such action, I advised Dr. OKAWA to abandon this plan and to sever his connections with such young officers as were concerned with it, explaining that officers were prohibited from engaging in such political activity.

"Besides making a report to higher officials I also informed the Vice-Chief of the General Staff and suggested that he should warn the young officers of the General Staff not to approach or to associate with OKAWA in such matters. It was at this time that I was told by the Vice-Chief of the General Staff that

there were indications that Army firecrackers had been delivered to OKAWA's faction by these young officers. I called his attention to the necessity for having them returned immediately in order to avert trouble for such army personnel and to protect the prestige of the army.

"Later I heard that Dr. OKAWA was still intending to put his plan into practice. Having thought that such an eventuality would bring trouble for the young officers of the General Staff, who had been connected with Dr. OKAWA, I requested Marquis TOKUGAWA, Yoshichika, in whom Dr. OKAWA was said to have had confidence, to persuade Dr. OKAWA to abandon his reckless plan and return the firecrackers to the young officers of the Army General Staff; with the result that Marquis TOKUGAWA succeeded in having Dr. OKAWA abandon the plan he had formulated.

"However, I received information that despite the request of the officers of the Army General Staff, the firecrackers had not been returned and that they remained as ever in the possession of the OKAWA faction. I personally and the War Ministry had nothing to do with such articles, but since the effort made by the officers of the Army General Staff to recover was insufficient I was afraid trouble might crop up in

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the future to the detriment of the Army's prestige, if the matter were left alone. So, I saw Dr. OKAWA and requested him to return the firecrackers. Although he said he would do so, he took no immediate steps to keep his promise.

"Therefore in order to hasten the matter I again requested Marquis TOKUGAWA to persuade Dr. OKAWA to return the firecrackers. As through Marquis TOKUGAWA's efforts final arrangements were made to return the firecrackers, I informed the Army General Staff of the fact. Later I received information that the officers of the General Staff received from OKAWA's faction the firecrackers in their original form and number.

"Thus, the so-called March Incident was brought to an end.

"Prosecution witnesses, UGAKI, Kazushige at court record pages 1608 and 1627, TOKUGAWA, Yoshichika at court record pages 1441 to 1446, and SHIMIZU, Konosuke at court record pages 1402 to 1404 and 1406 to 1408, and 1410 to 1411, in their testimonies have made a few misstatements, but these were cleared up to some extent by cross-examination, and in light of their testimony, regardless of the few misstatements, I believe the Tribunal will find my

statement to be true.

"4. With regard to the October Incident, there is in the interrogatory of the defendant HASHIMOTO, record pages 15,676 and 15,677, a statement that would lead the Court to misunderstand and to think that I was a participant in the planning of that Incident. This is a mistake. I had no connection whatsoever with the October Incident.

"From what I learned in the course of the disposal of the Incident as a part of my official duty, it was the plan in October, 1931, of some young officers of the General Staff, to effect a renovation of the domestic organization of Japan. Before the plan took any concrete shape, being still in the stage of occasional conferences, however, comparatively moderate elements in the group secretly informed IMAMURA, Hitoshi, the Second Section Chief in the Army General Staff, of the attempt. The information was conveyed by him to NAGATA, Tetsuzan, Chief of the Military Affairs Section of the War Ministry, and by the latter to me.

"Upon receiving this information I at once reported the matter to the War Minister and the Vice Minister. The Minister of War requested TOYAMA, Commander of the gendarmerie, to take measures to

confine immediately and hold incommunicado all the young officers concerned, who were then confronted with their improper activities and were severely reprimanded for their indiscretions, and told to disband and discontinue such activity. This put an end to the incident.

"The truths of the March and October Incidents are just as I have said before and what is stated in court exhibit 179F is a false report and the statement in court exhibit 2177A is also a mistake. Also I had no connection whatsoever with the May 15th Incident mentioned in court exhibit 2178A.

"In the interrogatory of Dr. OKAWA, concerning the 15th May Incident, he mentions the March Incident and makes it appear as if in deciding upon his actions he took into consideration the future of Manchuria. However, when OKAWA called on me in connection with the March Incident, wanting to arrange an appointment with General UGAKI, his explanation did not include even a single mention of policies towards Manchuria.

"5. In connection with exhibit 2202A the invitation extended by the War Ministry to the leading members of the Manchurian Railway Company on 30 June 1931, this was a courtesy banquet given by the War

Ministry by way of a return invitation to the leading members of the Manchurian Railway Company, and no talks were made discussing politics pertaining to Manchuria or Mongolia.

"6. The outbreak of the Manchurian Incident was not due to any plan or intrigue on the part of any Cabinet member or officials of my acquaintance as far as I know, and I never saw or heard of any such plans for aggression as alleged by the prosecution, and I never conspired with anyone to do any of the acts charged in the Indictment.

"7. On the night of 18 September 1931, when the Mukden Incident broke out, I was asleep at my home in Azabu. Although I do not recall the exact hour, I think it was between 2:00 and 3:00 a.m. on the 19th that a telephone call came from the War Ministry and I was for the first time informed that around 10:30 p.m. on the 18th some Chinese soldiers in Manchuria had blown up the railway line near Liutiaukou, to the north of Mukden station, and that fighting had ensued between the Chinese troops and the Japanese garrison. Summoned by the War Minister, I arrived at his official residence at about 6:30 a.m. and found that Vice-Minister of War SUGIYAMA was unable to show up on account of illness. Pursuant to an order given

by the War Minister, I requested Secretary KUSHIBUCHI to inform by telephone those government offices concerned, and give them an outline of the Incident, and to request the Premier, through the Cabinet Chief Secretary, to convene an emergency cabinet meeting. I then conferred with the War Minister and both of us were of the opinion that handling of the situation should be carried out so as to localize the Incident and to restore the peace.

"Then since summons came from the Vice-Chief of the Army General Staff to the Vice Minister of War for consultation at his office, and as the Vice Minister was ill and absent, the War Minister sent me in his stead. I met Vice-Chief of Staff NINOMIYA at about 7:00 a.m. in the Chief of the Army General Staff's drawing room and we deliberated on the following points, which we suggested to the government: namely, that the best measure was to adhere to a policy of localization and thus stabilize the Incident; that although the Chinese side may be responsible for the outbreak of the Incident, our position should be defensive; that the conditions for the settlement of the Incident should not be determined by the Army alone; that if the Chinese acts were based on an anti-Japanese policy, this may give rise to the outbreak of another incident,

and the Kwantung Army would then have to face much more provocation; and therefore taking advantage of this situation a proposition should be made to the Chang Hsueh-liang regime requesting them to observe existing treaties and rights acquired thereunder.

"I recall that when the Vice-Chief of Staff and I held this conference, IMAMURA, head of the Second Section, was there also. When the War Minister notified me after the Cabinet meeting that the Cabinet had decided on making the best of the situation according to a policy of localizing the Incident, I reported this to the Vice-Chief of the Army General Staff. The War Minister then sent a telegram which the Military Affairs Bureau drafted to the Commander in Chief of the Kwantung Army, stating that the Imperial Japanese Government wished to exert its utmost towards the localization of the Incident, and that therefore they desired the Kwantung Army to keep this in mind.

"On the same day, a telegraphic report was received from the Commander in Chief of the Korean Army that in view of the urgent Manchurian situation he was preparing to dispatch a mixed brigade to Manchuria. The War Minister requested the Chief of Army General Staff to wire that this measure should

be suspended and he did as he was requested. We found out on September 21, however, that the brigade had already crossed the border on its own initiative despite the instructions of disapproval of the Chief of the Army General Staff, so this matter was taken up for discussion at the cabinet meeting of September 22.

"The cabinet finally gave ex post facto approval. Since the Imperial sanction had been obtained expenses of the Army had to be met and were paid out of the second reserve funds.

"Towards the end of September it was decided that since the main strength of the Kwantung Army was concentrated along the railway zone and since the railway, as well as lives and properties to be protected extended over such a vast area, the War Minister, after consultation with the Chief of the Army General Staff, indicated to the Commander of the Kwantung Army that although it was necessary to station the Japanese patrol detachments along the line connecting Kirin, Changchun, and Chengshiatun, and along the line of the Taliaho, the Japanese troops should not advance either to the north or to the west of these lines. At the same time, the Kwantung Army units close to Chinchow should be withdrawn within the lines designated. On

26 November a disturbance broke out in Tientsin. The Commander in Chief of the North China Army requested the Commander in Chief of the Kwantung Army to send reinforcements, on account of insufficient troop strength, for the protection of the Japanese community and for the maintenance of peace and order in foreign settlements, and on the 27th of the same month, the Commander in Chief of the Kwantung Army dispatched a unit as far as Koupangtzu for the purpose of reconnoitering the Chinchow area, in preparation for transportation of troops. However, the War Minister requested strict observance of the lines designated, in accordance with the policy of the Cabinet for localizing the Incident, and the Chief of the Army General Staff, in compliance with this expressed desire, ordered the Commander of the Kwantung Army to withdraw the unit to the east of the Taliaho River.

"8. On 10 December, 1931 the WAKATSUKI Cabinet resigned en bloc, and a new cabinet was organized on the 13th under the premiership of INUKAI with Lt. General ARAKI as War Minister. Prior to this, diplomatic negotiations had been started in an attempt to prevent further clashes between the Japanese and Chinese troops near Chinchow.

"However, settlement had not been reached even as late as December, 1931, and on 23 December, 1931 a battle took place between the units of the Kwantung Army and those of the Regular Chinese Army, because the latter advanced from Chinchow and attacked the units of the Kwantung Army that were engaged in the suppression of the soldier bandits near Tienchuangtai. The Regular Chinese Army evacuated Chinchow, however, and the Kwantung Army effected a bloodless entry into the city on January 3, 1932 and took charge of maintaining public peace and order there.

"In January, 1932 Japanese and Korean residents in Harbin and some Chinese officials and civilians were repeatedly asking the Kwantung Army for despatch of rescue forces and the Kwantung Army had reported that they would like to comply with these requests but the central army authorities had been withholding approval of the requests made by the

Kwantung Army with respect to the necessity of rescuing Harbin, but the disordered and confused situation of the city was such that it made the central army authorities believe that such action was necessary, and they finally gave their approval to the request made by the Kwantung Army Commander. Whereupon, the Kwantung Army Commander dispatched necessary troops to maintain peace and order in Harbin, and on 5 February, 1932 the troops drove back the soldier-bandits there.

"9. Following the outbreak of the Shanghai Incident at the end of January, 1932, the necessary troops were dispatched to Shanghai areas, but later, on 5 May, 1932, a truce was concluded and part of the Army units were transferred to Manchuria and the rest were returned to Japan.

"10. The personnel, including myself, of the War Ministry endeavoured at all times under the leadership of the War Minister to check the aggravation of the situation in Manchuria on the basis of a policy of non-aggravation. But unfortunately the Incident developed as it did which was unavoidable and those concerned therewith did their best to meet the situation in accordance with the above policy.

"11. Next concerning the Army Budget. Exhibit 74 refers to the period 1942 after the official

organization of the War Ministry was revised, and it was by virtue of this revised official organization that the Chief of the Military Affairs Bureau would assist the War Minister in matters concerning control of the budget, but before this revison the Chief of the Intendance Bureau was responsible for the supervision of all business related to the Army budget, and the Chief of the Military Affairs Bureau had neither authority, control, nor responsibility in that connection, which was the case during the time I held such office. Reference is made to record page 27,717, line 17 where the witness states, "Control of the budget" as a duty of the Chief of the Military Affairs Bureau came in later years as a revision.

"12. The independence of Manchukuo was declared in March, 1932. Consequently, the new regime made various requests of Japan, and the Japanese Government was pressed by the necessity of examining its policies in order to meet with those requests economically and politically. Though the policy, at large, to support and uphold the development of Manchukuo was roughly established, I recollect, that up to the time when I left my position in the War Ministry in August, 1932 most of the concrete measures had not yet been decided.

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"13. In exhibit 227, I, as Vice-War Minister, received an advice from the Chief of Staff of the Kwantung Army dated June 4, 1932 with respect to the taking over of the Dairen Customs, and I reported to the War Minister about it. But as at this time the government had not decided a policy concerning customs and as it was a matter which could not be carried out by the Army alone no action was taken thereon.

"14. I will now explain the use made of the funds mentioned in exhibit 2210. The sum of 20,000 yen turned over to me as Vice Minister of War on 4 July, 1932, was handled under my supervision by the Senior Adjutant of the War Ministry and the Secretariat Pay-Master and was used to defray expenses for social occasions held at the Minister's official residence and in the Ministry itself, for incidental expenses of various bureaus and sections of the Ministry and to pay persons employed temporarily.

"15. I was transferred to Chief of Staff of the Kwantung Army on 8 August, 1932 and therefore I truned the sum of 18,500 yen, given to me as Vice War Minister, which is stated in Court exhibit 2211, over to Lt. General YANAGAWA, Heisuke, my successor in office, and I do not know how it was used.

"16. The sum of 1,970,000 yen, turned over

to me under my name when I was Chief of Staff of the Kwantung Army on December 27, 1933, as stated in exhibit 2213, was actually handled by the Senior Adjutant and the Pay-Master of the Superintendance Department under the supervision of the Vice Chief of Staff in charge, in accordance with the order of the Kwantung Army Commander, and I was merely to supervise its use.

"The expenditures during the two months up to the time of my departure from the Kwantung Army was appropriated to incidental expenses at the Kwantung Army Commander's official residence and for the various divisions, independent brigades, independent garrison units, gendarmerie and Special Service Organizations under the Army, but the largest amount was retained by the Headquarters.

"During the tenure of my post as Chief of Staff, the sum which had been alotted to the various units and special organs was spent for obtaining information and especially for payment for collected weapons from potential and de facto bandits. The amount for use under this system for collection of these weapons included sums which were due but had not been paid as well as sums which were to be paid in the future.

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"This was the use made of these funds during the time I was Vice-Minister of War and Chief of Staff of the Kwantung Army, and I can only say that the way the Army paid out secret service funds was such that no individual use whatever could be made of it.

"17. I was appointed Chief of Staff of the Kwantung Army on August 8, 1932 and arrived at Mukden on the 26th of the same month, accompanying the new Kwantung Army Commander, General MUTO, Nobuyoshi, who is dead, and who concurrently held the post of Ambassador Plenipotentiary. General MUTO as Ambassador Plenipotentiary signed the Japan-Manchukuo Protocol on 15 September, 1932, whereby Japan recognized Manchukuo and the duty of joint-defense was assigned to the Kwantung Army in order to secure the integrity of Manchukuoan territory as well as to maintain law and order there.

"The State of Manchukuo, in its declaration of independence issued on 1 March, 1932, announced that the four North-eastern Provinces under the rule of Chang Hsuel-liang were within its territory. Therefore, it was necessary for the Kwantung Army in cooperation with Manchukuo to make efforts for restoring law and order in Jehol Province. But it was more urgent to restore peace and order in the area east of

the Taliaho River, especially along the South Manchurian Railway where dwelled multitudes of Japanese and Manchurians. Therefore, the Army Commander continued to drive out the remnants of the Ting Chao, Li Tu, Ma Chan-shan armies making efforts to restore law and order in the area east of the Taliaho River along the railway and the main roads, with the cooperation of the Manchukuoan Army and the local self-government and police organizations, and also carried out the 'Pao Chiao' system at the same time which was adopted since it subsequently ensured the maintenance of law and order.

"Those bandits or potential bandits who surrendered weapons received compensation therefor, and measures were also taken for giving employment to those among them who were without employment or farms to return to; and many were employed as laborers by the National Road Bureau of the Manchukuoan Government.

"General Ting Chao visited General MUTO, Commander of the Kwantung Army, at Chanchung to express his gratitude for the treatment accorded him and his army, and swore to do his utmost for Manchukuo in the future. I understand he was later given important work by the Manchukuo Government.

"At the end of 1932 Su Ping-Wen, who was given a military post at Kulumbair after the State of Manchukuo was formed, rebelled against Manchukuo, leading troops under his command, and many Japanese residing in that district were killed or imprisoned. Therefore, the Kwantung Army was faced with the necessity of using force for the immediate protection of the residents. However, fearing that rash action might bring about further harm, the Kwantung Army asked the Soviet Union to rescue the Japanese residents. As a result, through the good offices of the Russian Authorities the Japanese residents were accommodated into Soviet territory, then transported to Vladivostok on the Amur Railway, and from there sent safely to Japan. Subsequently, the Commander of the Kwantung Army dispatched a unit to that district and peace and order was restored after defeating Su's forces.

"A part of Chang Hsueh-liang's troops who left Chinchow and Tungliao was received by Tang Yu Ling, the Governor of Jehol Province and, joining the powerful bandits of the Jehol area, they established a base in Jehol province as a stronghold from which to carry out insidious activities in South Manchukuo.

"So General MUTO, the Commander of the Kwantung Army, advised Hsieh Lu Sheng, a representative sent from Jehol Province and secretary of Tang Yu-ling, that the Kwantung Army's policy was to restore peace and order in Jehol as peacefully as possible, and that it was necessary for the Governor of Jehol province to provide for the peaceful participation of Jehol province and its cooperation with Manchukuo in maintaining peace within the borders, and in securing the welfare of the inhabitants of Manchukuo in the cause of justice and humanity, and for the maintenance of friendly relations and suggested that he so advise Tang Yu-ling. But Tang Yu-ling did not accept this advice and started a campaign to disturb the peace of Manchukuo in collusion with bandits and therefore the Japanese and Manchukuoan troops were obliged to take action for restoring peace and order in Jehol province.

"After peace was restored in Jehol province the Commander of the Kwantung Army ordered all the units to defend the line of the Great Wall and the borders but not to penetrate into North China and Chahar areas. Every time they were attacked, all the units drove back the defiant attacks of Chinese units from their line of defense by way of defense.

"By the end of April, Chinese groups increased their strength and their attacks became persistent. Against these some Kwantung Army units driving away the enemy pursued them into the North China area. However, they withdrew thereafter to the line of the Great Wall in accordance with the order of the Kwantung Army Commander.

"However, the Chinese Army further increased its strength and repeated regular persistent attacks against the line of the Great Wall following the Kwantung Army units withdrawing toward the line. At this juncture, units of the Kwantung Army by order of the Army Commander, counter-attacked and pursued the Chinese troops as far as the line of the Chi-Ho River in early May, to prevent the enemy from repeating its obstinate attacks.

"The Kwantung Army Commander strictly ordered all units to stop in the area east of the line of the Chi-Ho River, considering the fact that the entry of the Japanese forces into the Peiping-Tientsin area might lead to aggravation of the situation. The Chinese Army proposed a truce on 25 May, and the Kwantung Army Commander accepted this offer, and, on 31 May, 1933, a truce was concluded at TANGKU putting an end to the Manchurian Incident.

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"I was relieved of the post of Chief of Staff of the Kwantung Army on 5 March 1934, and my duties in Manchuria covering a period of twenty months were associated with staff work under the direction of the Commander of the Kwantung Army. During this time I was not in command of troops, and it is needless to say that I had no power whatsoever to command any troops, because I was only a staff officer responsible only for administrative matters in the Kwantung Army Headquarters.

18. It is stated in Exhibit 230, record page 2902, that I sent a communication to the Vice-Minister of War, concerning 'The Program of Guidance for Manchukuo,' dated 3 November 1932. The document showed the opinion of the commanding officer on the spot and was prepared by his order in reply to an inquiry from the War Vice-Minister and was made according to the draft plan of the Second Division of the General Staff. It was a reply in document form written by order of the Army Commander expressing his opinion on the matter inquired about in reply to an inquiry from the War Vice-Minister and was not made on my own initiative and was not my own opinion.

"All assistance to Manchukuo derived from the Kwantung Army while I was Chief of Staff was carried

out under orders of higher authority issued in accordance with the Japan-Manchukuo Protocol, (exhibit 440, court record page 5035), and its annexed documents for restoration and maintenance of peace and order, for protection of transportation, communications, industry and the residents of Manchuria, in view of the promotion of the happiness of the Manchurian people, and all such activities as far as I knew were carried out at the initiative and on the request and with the cooperation of the government organizations of Manchukuo itself.

"19. After I left my duties in Manchukuo on 5 March 1934 I did not serve in any capacity, either officially or privately, which had any direct connection with the Manchurian or China problems. However, I felt that the outbreak of the China Incident and its continuation without cessation was most regrettable. On occasions when I talked to friends I advanced the view, purely as a private individual, that the most appropriate measure to save the situation would be to request Great Britain and the United States, the two countries which had close relations with China, to mediate a Sino-Japanese peace. But little attention was paid to my view. For five months, from April to August of 1939, and again for six months,

out under orders of higher authority issued in accordance with the Japan-Manchukuo Protocol, (exhibit 440, court record page 5035), and its annexed documents for restoration and maintenance of peace and order, for protection of transportation, communications, industry and the residents of Manchuria, in view of the promotion of the happiness of the Manchurian people, and all such activities as far as I knew were carried out at the initiative and on the request and with the cooperation of the government organizations of Manchukuo itself.

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from January to July of 1940, I served as Minister for Overseas Affairs, but I had no connection with any work related to the China Incident. The capture of Changsha occurred during the time I was still the Governor-General in Korea, and I had no connection with it whatsoever. As for the battles at Hengyang, Kweilin and Liuchow, all of them were actions taken from the standpoint of tactical operations and were matters outside of my responsibility.

"20. From December 1935 until 15 July 1938 I was Commander of the Korean Army.

"Now, with regard to the Lake Khasan Incident, (court record pages 22,742, 22,743 and 22,751), Witness TANAKA, Ryukichi, testified in relation to the concentration of the 19th Division. But this is his imagination and differs with the facts. The actual situation was that in view of the movement of Soviet troops in the vicinity of Chang-Kufeng the commander of the 19th Division, first of all, had taken precautionary measures on the bank of the Tumen River by stationing there a part of the division strength, and then in order to enable the taking of appropriate and corresponding defensive measures in the face of changes that might take place in the situation in the future, requested my permission as Commander of the Army on

14 July 1938 to concentrate the main strength of the division on the bank of the Tumen River. Before giving any order I immediately wired to the Chief of the General Staff and War Minister for instructions from the Central Command in Tokyo in relation to taking such action.

"However, before receiving the reply to my inquiry, I received orders the next day, 15 July 1938, transferring me to Tokyo. The telegram from the Chief of the General Staff in reply to my inquiry arrived 16 July 1938, and was delivered to General NAKAMURA, my successor as Commander of the Korean Army. I think that the new commander who succeeded me disposed of this matter on the basis of these telegraphic instructions, as the order for concentration was not issued by me.

"At the time of the Khalkin-Gol Incident I was Minister for Overseas Affairs, and the nature of my duties had no connection whatever with such matters in Manchuria, and I did not participate in any discussions concerning problems related to the U.S.S.R. or Outer Mongolia.

"21. According to Court Exhibit 2214 with regard to the Tri-Partite Pact it is alleged that ITAGAKI on the 8th of May, 1939, and I on the 9th gave an interview to a reporter of the Domei News Agency. Part of the statement in this exhibit relating to myself is a mistake; ARITA, the Minister of Foreign Affairs may have made the statement therein but I did not. It was quite common for the Minister of Overseas Affairs and Minister of Foreign Affairs to be confused by those not well versed in their respective duties. I do not recall having given an interview, to such a reporter. However, assuming that I had given such an interview, I certainly would not have given out any statement as alleged in this exhibit, for from the nature of my duties as Minister for Overseas Affairs, I possessed no authority or responsibility of any kind with regard to diplomatic or military matters, and I was not allowed to make any public statement in such a form.

"Furthermore, while I was in office as Overseas Minister in the HIRANUMA Cabinet, I only knew vaguely that the problem of the Tri-Partite Pact was being discussed at a five-ministers' conference composed of the Prime Minister, the War Minister, the Navy Minister, the Foreign Minister, and the Finance

Minister.

"During this period when I held office as the Minister for Overseas Affairs in the HIRANUMA Cabinet, my views on this subject were never requested or expressed at any Cabinet meetings when I was present or on any other occasion that I can recall, except one, when in May, 1939, I received a request from the War Vice-Minister Lieutenant General YAMAWAKI, through a messenger, asking me to help restore friendly relations between the War and Navy Ministers who had opposite views concerning the contents of the conclusion of the alliance. To this request, I replied, in a note which I entrusted to the messenger, that although I was an outsider, I believed it would be best for Japan to put off the conclusion of an alliance with Germany and Italy. Therefore, although I was an outsider in the Cabinet with regard to this questions, I also expressed in reply my anti-alliance view to Prime Minister HIRANUMA on this occasion in view of the circumstances in which I had replied to the War Vice Minister of my opposition thereto, and thereafter, I never entered any other discussions thereon.

"22. Court exhibit 523, record page 6174, a telegram sent to Berlin by German Ambassador Ott concerning the results of a discussion he had with me, is

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full of sta ements that are false. It is true, that, on 20 June 1940, in response to a request made by TOKUGA A, Yoshitomo, for his friend. Ambassador Ott, I talked with the Ambassador, whom I had not met before, for about half an hour with TOKUGA A acting as our interpreter. I did not invite Ambassador Ott to call on me, and this meeting had no connection whatever with the defendant, MUTO, whose name was not even mentioned in our talk, and at this short interview Ambassador Ott did most of the talking and explained his views, through the interpreter, namely, that the conclusion of a German-Japanese alliance and a non-aggression pact between Japan and the U.S.S.R. would be of benefit to the economic development of Japan in the southwestern Pacific area, and in this connection suggested the economic value of French Indo-China and the Netherlands East Indies. It is entirely contrary to the fact to say that I put to him a question concerning the attitude of Germany in case Japan started military actions in these regions, or that I would gladly promote the idea of the Ambassador, to have Japan attack the Philippines and Hawaiian Islands and hold in check the United States in the Pacific. This would call for an important utterance concerning a matter about which I, as Minister for Overseas Affairs had absolutely no authority and no concern, and it was

a matter about the contents of which I was not authorized to express my attitude or my opinion to anyone and in my position as Overseas Minister, I could not think of speaking even as my private opinion, especially, to a foreign Ambassador, whom I met then for the first time. The telegram of Ambassador Ott to the effect that I said that there was a possibility of concluding a non-aggression pact between Japan and the Soviet Union further proves that the Ambassador made such a false statement for the purpose of realizing his own view to make Japan follow the course he had planned and was not aware and was confused in his knowledge of the functions of the Overseas Ministry and the Foreign Ministry. Further, the Ambassador's observation that I belonged to the KONOYE faction was wrong, because at that time I knew Prince KONOYE only by name. This can be seen from court exhibit 1278, page 10 and page 11 of the KIDO Diary, in which Prince KONOYE states that he did not know me, and this proves the fact."

THE PRESIDENT: We will adjourn now until half past nine on Monday morning.

(Whereupon, at 1540, an adjournment was taken until Monday, 3 November 1947, at 0930.)